

## **NOTICE OF DECISION - FINDINGS**

### **Tahoe Exemption - 2002**

The findings are made pursuant to Section 21080.5 of the Public Resource Code (PRC), and Sections 1144-1145 of Title 14 California Code of Regulations (14 CCR). These findings pertain to the amendment of 14 CCR Section 1038.

#### **I. DESCRIPTION OF REGULATORY ACTION:**

This Notice of Decision pertains to the adoption of an exemption from a timber harvest plan requirements for parcels that are 20 acres or less within the Lake Tahoe Basin.

The prolonged drought that preceded the winter of 1994/95 resulted in increased levels of forest insects and disease and caused severe tree mortality in the Lake Tahoe Basin. These conditions continue and leave the area ripe for a catastrophic fire. The Board desires to give landowners greater flexibility to remove insect and disease damaged timber resulting from the continued drought conditions.

This rule is part of a strengthened effort by a number of agencies to reduce fuel hazard in the Tahoe Basin. Current Board rules (especially 14 CCR 1038) can act as a disincentive to landowners removing dead and dying trees by requiring the expense and time for preparation and review of a timber harvest plan in excess of 10 percent of the stand volume.

These rules were adopted in 1995 with a five year expiration date. They were extended for two additional years in 2000. Conditions still exist that caused the Board to extend the rules in 2000. This rule making action makes these rules permanent.

#### **II. FINDINGS REGARDING POTENTIAL SIGNIFICANT IMPACTS**

The Board finds that there are no significant adverse environmental effects from the proposed action.

#### **III. FINDINGS ON ALTERNATIVES**

1. Retain existing regulations without any change.

The adoption of this alternative would not address the public problem and other conditions or circumstances the proposed regulatory action was intended to address as specified in the Initial Statement of Reasons.

2. Adopt the regulations as proposed in the 45-Day Notice, and modified in 15-Day Notice, with consideration given to public and other agency comments.

The adoption of this alternative would allow the Board to adopt modified rules after receiving input on this proposal. Alternative 2 was determined to be the preferred

alternative by the Board, and was adopted.

#### **IV. SUMMARY OF POTENTIAL SIGNIFICANT ADVERSE ENVIROMENTAL IMPACTS**

The greatest potential impact that has been identified during the review of this rule has been that to water quality. Lake Tahoe is recognized by the federal government as an Outstanding National Resource Water. As such, no permanent or long-term reduction in water quality is allowed. Without the ability to economically reduce the fuel hazard, catastrophic wildfire could adversely impact the waters in the Basin.

#### **V. FINDINGS REGARDING POTENTIAL SIGNIFICANT ADVERSE ENVIROMENTAL IMPACTS**

For the reasons that follow, the Board finds that there are no significant adverse environmental impacts resulting from the adoption of the Lake Tahoe Basin 20-Acre Exemption rule.

The operations are restricted to individual lots that are 20 acres or less. Parcels over 20 acres are likely to have enough timber volume, value, and potential impacts that a timber harvest plan is the appropriate process to follow for removing timber. The intent of this rule is to facilitate tree removal on small parcels. It prevents repeated impacts from a large landowner who might submit numerous 20 acre exemptions.

Defining the word "Dying" to mean dead within one year reduces the number of trees that are removed, which reduces the amount of total site disturbance per entry.

The requirement for an RPF to mark trees ensures professional oversight in the planning and decision process for the operations.

The use of Bailey's Land Capability Districts and yarding restrictions (helicopter, over-snow, hand carry, and existing roads) match the Tahoe Regional Planning Agency (TRPA) ordinances and meet the Lahonton Regional Water Quality Control Board goals.

The mitigations presented in 1038(f)(2) for tree removal within Stream Environment Zones incorporates requirements in the TRPA ordinances and meets Regional Water Quality Control Board (RWQCB) concerns for operations in these areas.

Tractors and heavy equipment are prohibited on slopes over 30% except during over-snow operations that result in no soil disturbance. This mitigation reduces the amount of soil disturbance.

Heavy equipment operations in the watercourse and lake protection zone (WLPZ) are prohibited except for use or maintenance of existing facilities or new skid crossings that are approved by the RWQCB. This mitigation reduces disturbance in the WLPZ and ensures RWQCB participation in any new uses within the WLPZ.

The minimum 25 foot WLPZ for Class III streams meets the TRPA standard and reduces soil disturbance near Class III watercourses.

The prohibition on crossing Class I and II watercourses except at existing bridges and culverts reduces soil disturbance near streams. Crossings for Class III and IV crossings require Water Board staff approval. This requirements ensures Water Board staff involvement on new crossings.

The requirement to allow RWQCB staff access to property proposed for harvesting under this exemption permit ensures their ability to inspect sites proposed for harvest for the potential impacts to water quality.

Sections 1038(f)(5), (6), (7), (10), and (11), match the Board's existing mitigations in 1038(b)(5), (4), (9), (7), and (8), respectively. They prohibit impacts to/from:

- new road construction and reconstruction
- operations on slides or unstable areas
- timber harvest within the WLPZ (except sanitation salvage)
- rare, threatened, or endangered plants or animals
- species of special concern

1038(f)(12) is similar to 1038(b)(10) and protects archaeologic and historical sites.

Persons conducting timber operations under this exemption are required to comply with the Forest Practice Act and District rules. The Act and Rules provide other general mitigations that are not otherwise specific to the conditions in 1038(f).

## **VI. FINDINGS ON COSTS SUMMARY OF POTENTIAL IMPACTS**

The Board finds there are no additional costs to any state agency, any state mandated costs to local agencies of government or school districts that require reimbursement under Part 7, Div. 4 Sec. 17500 GC because of any duties, obligations or responsibilities imposed on state or local or agencies or school districts. This action can be accomplished with no significant additional net cost, or where such costs exist, they are entered into voluntarily.

This order does not create any savings or additional costs of administration for any agency of the United States Government over and above the program appropriations made by Congress.

### **A. Costs to State Agencies**

The Board has determined that this action will not have a net increase in costs to state agencies that have been identified.

## B. Local Agencies

The Board has determined that this action will not have a net increase in costs to local government, school districts or other local agencies.

C. Costs to Affected Persons: The Board has determined that this action will not have a net increase in costs to affected persons that have been identified. The Board finds that the Tahoe Basin exemption rules do not impose any new mandatory requirements on forest management activities. Rather, the rules offer an alternative approach to current Board Rules. The current Board rules (especially 14 CCR 1038) can act as a disincentive to landowners removing dead and dying trees by requiring the expense and time for preparation and review of a timber harvest plan for volumes of in excess of 10 percent. The Board desires to give landowners greater flexibility to remove insect and disease damaged timber while drought conditions persist. The existing 10 percent volume limit in 1038(b) for removal of dead and dying trees can hinder hazard reduction in the Tahoe Basin. This regulation is designed to reduce fuel hazard in the Tahoe Basin.

## D. Costs to Businesses and Small Businesses

The Board has determined that this action will not have a net increase in costs to businesses and small businesses that have been identified. The Board finds, for the same reasons cited above, the Tahoe Basin exemption rules are not expected to result in any increase in costs, and may result in a cost savings, to businesses and small businesses within the state of California. The operations are restricted to individual lots that are 20 acres or less in which a THP would not be appropriate.

## E. Competitiveness Considerations

The Board has determined that this action will not have a significant impact on the ability of California businesses to compete with businesses in other states. Section 11346.53(g) of the Government Code requires the consideration of the impacts of proposed rules on the ability of California businesses to compete with businesses in other states. The Board finds the Tahoe Basin exemption rules have the potential to marginally increase, but will not decrease, the competitiveness of California timber producers relative to other states and regions. This is because the proposed rule may provide a means of reducing landowner costs and delays associated with the current THP process.

## F. Creation or Elimination of Jobs or Businesses

Adoption of these regulations is not likely to create or eliminate jobs within California.

## G. Impacts on Housing

The Board has determined that this action will not have a significant affect on housing costs. This conclusion is reached for several reasons: prices of lumber are set in regional

or larger markets; the cost of lumber is also typically less than 20% of a house; and the volumes of timber likely to be harvested under this alternative are relatively small.

JLM 11/13/02

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